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MERCHANT & GOULD SCIENTIFIC ATLANTA, A CISCO COMPANY P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER CHAI, LONGBIT	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ANTHONY J. WASILEWSKI and HOWARD G. PINDER

Appeal 2010-004820
Application 10/602,988
Technology Center 2400

Before MARC S. HOFF, JAMES R. HUGHES, and
GREGORY J. GONSALVES, *Administrative Patent Judges*.

GONSALVES, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the final rejection of claims 1-20 (App. Br. 2). We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

The Invention

Exemplary Claim 1 follows:

1. A method for providing a program in a conditional access system, the method comprising the steps of:

selecting a digital bit stream from a plurality of digital bit streams;

encrypting a first portion of the selected digital bit stream according to a first encryption method to provide a first encrypted stream;

encrypting a second portion of the selected digital bit stream according to a second encryption method to provide a second encrypted stream wherein the second encryption method is different from the first encryption method;

multiplexing the first encrypted stream, the second encrypted stream, and the plurality of digital bit streams to provide a partially-encrypted stream; and

transmitting the partially-encrypted stream.

The Examiner rejected claims 1-12 and 15-20 under 35 U.S.C. § 102(e) as being anticipated by Candelore (U.S. 7,376,233) (Ans. 3-5).

The Examiner rejected claims 13 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Candelore in view of Vantalon (U.S. 7,216,358) (Ans. 5-6).

ISSUE

Appellants' responses to the Examiner's positions present the following issue:

Did the Examiner err in ruling that Appellants are not entitled to claim priority to the parent continuation application (Application No. 09/930,901 filed on 16 August 2001, "the '901 continuation application") because the '901 continuation application fails to provide adequate support for *"encrypting a first portion of the selected digital bit stream according to a first encryption method to provide a first encrypted stream; encrypting a second portion of the selected digital bit stream according to a second encryption method to provide a second encrypted stream wherein the second encryption method is different from the first encryption method,"* as recited in claim 1 and as similarly recited in independent claims 7 and 15?

ANALYSIS

The Examiner found that Candelore is prior art to Appellants' present application because Appellants are not entitled to claim priority to the '901 continuation application because it fails to provide adequate support for the disputed limitations emphasized above (Ans. 7-8). Appellants argue that the '901 continuation application does have support for these claim limitations because "page 27 of the specification (lines 19-29), used in conjunction with Figure 7, describes detailed mechanisms of MPEG transport, and in particular, the fact that 'any part or all of MPEG transport stream' may be

encrypted” (App. Br. 7).¹ Appellants also argue that the Specification discloses that one portion of the transport stream is encrypted according to one method and another portion is encrypted according to a different method (*Id.* at 6-7). We agree with Appellants. Figure 7 of the Specification shows the packets in a transport stream for various subcategories including video (705(a)), audio (705(b)), EMM (705(d)), ECM (705(g)), etc. The packets in a subcategory can be considered to form a digital stream. Moreover, the Specification states that “[a]ny part or all of MPEG-2 transport stream 701 may be encrypted, except that packet headers and adaptation fields are never encrypted” (p. 27, ll. 26-27). In other words, the Specification discloses that some of the portions of the transport stream shown in FIG. 7 may be encrypted while others may not be encrypted. In addition, the Specification also discloses that one portion of the transport stream is encrypted according to 3DES while another is encrypted according to DES (p. 13, ll. 6-13). Accordingly, we find that the Examiner erred in finding that the Specification does not provide support for the claims. Thus, we find that — contrary to the Examiner’s finding — Appellants are entitled to claim priority to the ’901 continuation application and therefore, that Candelore is not prior art. For these reasons, we will not sustain the Examiner’s rejection of claims 1-20.

¹ Although Appellants’ Appeal Brief refers to the Specification of the present application, they also effectively refer to the Specification of the ’901 continuation application because the specifications of the two applications are the same. We also cite to the specification of the present application in this Opinion to be consistent with the Appeal Brief.

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Application 10/602,988

DECISION

We reverse the Examiner's decision rejecting claims 1-20.

REVERSED

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